

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CITY OF HUNTINGTON,

Plaintiff,

Civil Action No. 3:17-01362

v.

**AMERISOURCEBERGEN DRUG
CORPORATION, et. al,**

Defendants.

AND

CABELL COUNTY COMMISSION,

Plaintiff,

Civil Action No. 3:17-01665

v.

**AMERISOURCEBERGEN DRUG
CORPORATION, et. al,**

Defendants.

**WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE AGENCY’S RESPONSE IN
OPPOSITION TO DEFENDANTS’ MOTION TO COMPEL THIRD-PARTY
DISCOVERY**

In response to Defendants’ Motion to Compel Third-Party Discovery (ECF Document 435) relating to the subpoenas issued to West Virginia Public Employees Insurance Agency (“PEIA”) by the Defendants on March 17, 2020, PEIA, by counsel, requests the Court dismiss said motion, or, alternatively hold it in abeyance. In support thereof, PEIA states as follows:

1. As set forth in prior pleadings, on or around March 17, 2020, PEIA received subpoenas from certain Defendants.

2. Counsel for said Defendants and PEIA have had numerous discussions regarding the subpoenas at issues. The discussions have been productive and appear to be nearing resolution.

3. Specifically, the scope of the subpoenas has been narrowed by agreement, and PEIA has indicated to the subpoena-issuing Defendants that it will require a third-party consultant to complete the data-pull, which is already in process.

4. On May 15, 2020, Defendants filed the Motion to Compel Third-Party Discovery (ECF Document 435), and represented that negotiations were proceeding in good faith. Further, the motion requested that it be held in abeyance pending further negotiations with all non-parties.

5. PEIA agrees that negotiations have been proceeding in good faith, and PEIA likewise requests that the motion to compel be held in abeyance as requested by Defendants.

6. To protect its interests, PEIA files this response to preserve its objections as set forth in the previously-filed briefs (ECF Document 262, West Virginia Public Employees Insurance Agency's Memorandum of Law in Support of Motion to Quash Subpoena; ECF Document 304, West Virginia Public Employees Insurance Agency's Reply to Defendants' Response in Opposition to Motion to Quash Subpoenas; ECF Document 421, Memorandum in Support of West Virginia Public Employees Insurance Agency's Renewed Motion to Quash Subpoenas).

Therefore, based on the foregoing, PEIA respectfully requests that Defendants' motion to compel be denied, or alternatively, held in abeyance.

DATED: May 29, 2020

Respectfully submitted,

**WEST VIRGINIA PUBLIC EMPLOYEES
INSURANCE AGENCY**

By Counsel,

**PATRICK MORRISEY
ATTORNEY GENERAL**

/s/ Andrew L. Ellis

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CERTIFICATE OF SERVICE

I, Andrew L. Ellis, Assistant Attorney General, do hereby certify that on May 29, 2020, the foregoing “West Virginia Public Employees Insurance Agency’s Response in Opposition to Defendants’ Motion to Compel Third-Party Discovery” was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to parties and counsel of record.

/s/ Andre L. Ellis

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